

REMARKS

Claims 27-32 and 48-53 were considered. No claims are amended. Claims 27-32 and 48-53 remain in the Application.

The Patent Office rejects claims 27-32 and 48-53 under 35 U.S.C. §112, first paragraph. According to the Patent Office, the specification does not support “separately” delivering a treatment agent and a barrier having a binding member. The Patent Office points to the specification at page 23, lines 18-19, that it is “essential that the agent and the barrier both be present at or near the target tissue during at least partially overlapping times”.

Applicant believes the Application fully supports separately delivering treatment agent and a barrier having a binding member. For example, in the “Summary of the Invention” it is described that “[a] biodegradable barrier that is separate from the agent is utilized in the present invention the barrier has a binding member to couple the barrier to a tissue surface.” Page 9, lines 7-8. Using the example noted by the Examiner at page 23 of the Application, the Application describes an embodiment where a barrier and a treatment agent are presented to the target site in a time-varied manner, “wherein the barrier is provided at a different time from the introduction of the agent”. Application, page 23, lines 16-17. The method described by the noted sentence includes separately delivering a treatment agent and a barrier, one before the other. One way that the barrier is provided at or near a target tissue separately from a treatment agent is that the barrier and treatment agent are delivered at a different time.

In addition to the above-noted language, the Application also describes a biodegradable barrier that is separate from a treatment agent. See, e.g., Application at page 8, lines 7-8. In one embodiment, a treatment agent is contacted with a target tissue, followed by contact with a barrier to the target tissue. See, e.g., Application at page 8, lines 17-19. “In another embodiment, the barrier is contacted with a target tissue prior to introduction of a treatment agent.” See, e.g., Application, page 8, lines 22-23. These are other examples where delivering separately means separately in time.

Finally, Applicant believes the pending claims as written are fully consistent with the Patent Office’s identification of the cited language in the Application that “the agent and barrier

both be present at or near the target tissue during at least partially overlapping times.” Claims 27 and 28 both require that the barrier “hinders transport of the treatment agent away from the tissue but allows the treatment agent to migrate towards the tissue.” To accomplish the hindering away and migrating toward functions, the barrier and treatment agent must be present during at least partially overlapping times.

Applicant respectfully requests that the Patent Office withdraw the rejection of claims 27-32 and 48-53 under 35 U.S.C. §112, first paragraph.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.

Suzanne Johnston 7/19/07
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